

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA**

**In re: TATYANA MAZIK,
Debtor**

: CHAPTER 13

: BANKRUPTCY NO. 18-10643

**CHICAGO TITLE INSURANCE COMPANY,
Plaintiff**

v.

**TATYANA MAZIK,
Defendant**

: ADVERSARY NO. 18-0151

ORDER

AND NOW, this day of January, 2019, upon consideration of the Motion of the Debtor-Defendant, TATYANA MAZIK, to Dismiss the Amended Complaint filed by the Plaintiff in this proceeding, it is hereby ORDERED that the Motion is GRANTED and the Amended Complaint is DISMISSED.

J.

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Debtor
CHICAGO TITLE INSURANCE COMPANY,
Plaintiff

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Defendant

: **ADVERSARY NO. 18-0151**

**DEFENDANT-DEBTOR'S MOTION TO DISMISS THE AMENDED COMPLAINT
FILED IN THIS PROCEEDING**

The Defendant-Debtor in this adversary proceeding, TATYANA MAZIK, now comes and moves to dismiss the Amended Complaint filed by the Plaintiff in the above-captioned proceeding, alleging as follows:

1. The Movant filed the instant Chapter 13 bankruptcy case pro se on January 31, 2018.
2. The undersigned entered his appearance for the Debtor on February 12, 2018.
3. The Plaintiff in this proceeding is listed as a disputed, unsecured, unliquidated creditor on the Debtor's Schedules, filed on February 13, 2018.
4. The Plaintiff is also listed among the interested parties in this case on the Debtor's mailing matrix in this case.

5. The original Complaint filed in the instant adversary proceeding, purporting to set forth a claim of non-dischargeability of claims of the Plaintiff against the Debtor under 11 U.S.C. sections 523(a)(2) and 523(a)(6), was filed on July 2, 2018.

6. The filing of the initial Complaint on the stated grounds was filed after the bar date for claims and the deadline for filing complaints objecting to dischargeability.

7. On October 30, 2018, this court filed a Memorandum and Order which dismissed the original Complaint because it was based on 11 U.S.C. sections 523(a)(2) and (a)(6), but allowed the Plaintiff to file an Amended Complaint to attempt to state a claim under 11 U.S.C. section 523(a)(3).

8. On November 16, 2018, the Plaintiff filed an Amended Complaint in purported Compliance with the Order of October 30, 2018.

9. However, the Amended Complaint was not accompanied by a Summons, nor an Alias Summon, nor was this pleading served upon the Defendant in any manner whatsoever, nor was it served on the Debtor's counsel, nor is there any Proof of Service of any nature on the docket. The Defendant's counsel became aware of the Amended Complaint only through electronic notice from the court and this court's Order of December 10, 2018.

10. Also, the Amended Complaint was not filed in compliance with this Court's Order of October 30, 2018, in several respects. Including but not limited to the following:

a. The Amended Complaint has two counts, based, respectively, on 11 U.S.C. sections 523(a)(2) and 523(a)(6). Neither Count is based on 11 U.S.C. section 523(a)(3). Although 11 U.S.C. section 523(a)(3) is cited in the Amended Complaint, it is only mentioned in an unnumbered introductory paragraph and the Prayer for Relief, and not

elsewhere in the Amended Complaint. .

b. In addition to not specifically alleging a Count under 11 U.S.C. section 523(a)(3), the Amended Complaint nowhere alleges any of the basic components of a 523(a)(3), action, i.e., that the plaintiff was neither listed or scheduled as a creditor in this case, 11 U.S.C. section 523(a)(3), when it is averred in the Amended Complaint, at paragraph 71, that the Plaintiff was scheduled as a creditor in documents filed on February 28, 2018.

WHEREFORE, the Defendant requests that the Plaintiff's Amended Complaint be dismissed.

DATED: December 11, 2018

/s/DAVID A. SCHOLL
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